

DOCKET NO. AAN-CV20-6039670-S : SUPERIOR COURT
DIANNA PIAZZA : J.D. OF NEW HAVEN
V. : AT MILFORD
JOHN GALLAGHER and BEATRIZ : AUGUST 31, 2020
GALLAGHER.

DEFENDANTS' REQUEST TO REVISE PLAINTIFF'S COMPLAINT

Pursuant to Practice Book Section 10-35, et. seq., the Defendants, John Gallagher and Beatriz Gallagher, hereby request that the Plaintiff revise her Complaint in the following manner:

FIRST REQUESTED REVISION

I. PORTION OF PLEADING SOUGHT TO BE REVISED:

Count one paragraph 5 which states "In September of 2018, storm water runoff entered the property."

II. REQUESTED REVISIONS:

As to Count I, paragraph 5, Defendants request that the Plaintiff revise her Complaint in such a manner as to state with particularity the exact date upon which the incident alleged occurred.

III. REASON FOR REVISIONS:

Connecticut Practice Book Section 10-35 provides that a Request to Revise is proper
"Whenever any party desires to obtain (1) a more complete or particular statement of the allegations

of an adverse party's pleading, or (2) the deletion of any unnecessary, repetitious, scandalous, impertinent, immaterial or otherwise improper allegations in an adverse party's pleading, or (3) separation of causes of action which may be united in one complaint when they are improperly combined in one count, or the separation of two or more grounds of defense improperly combined in one defense, or (4) any other appropriate correction in an adverse party's pleading.

In the instant matter, the Plaintiffs' Complaint, in sum, alleges that run-off from the Defendant's storm water drainage pipe caused damage to their property. However, the dates upon which the alleged incidents occurred are not specified in the Complaint.

In Count I paragraph 5, the Plaintiff alleges that "in September of 2018 storm water runoff entered the (Plaintiffs) property". That occurrence is thereafter referred to in the complaint as the "2018 incident".

As written, the Complaint fails to properly put the Defendants on notice of the Plaintiff's claim. The dates of the alleged occurrences is a material fact and should be specified in the complaint. As is, the Defendants are unable to form an intelligible response to the Complaint. Furthermore, the Defendants are unable to properly defend this claim without knowledge of the date upon which the alleged occurrence arose. Thus the Defendants seek a more complete or particular statement of the allegations in the Complaint.

IV. OBJECTION:

SECOND REQUESTED REVISION

I. PORTION OF PLEADING SOUGHT TO BE REVISED:

Count one paragraph 8 which provides “In December of 2019, storm water runoff again entered the property.”

II. REQUESTED REVISIONS:

Defendants request that the Plaintiff revise her Complaint to state the exact date the incident alleged occurred.

III. REASON FOR REVISION:

See reason for first requested revision.

IV. OBJECTION:

THIRD REQUESTED REVISION

I. PORTION OF PLEADING SOUGHT TO BE REVISED:

Count two paragraph 13 which states “the defendants failed, neglected, or otherwise refused to remediate the condition on 71 Chamberlain with a reckless indifference to the rights of the plaintiff.”

II. REQUESTED REVISIONS:

As to Count II paragraph 13, Defendants request that the word “reckless” be removed.

III. REASON FOR REVISIONS:

Connecticut Practice Book Section 10-35 provides that a Request to Revise is proper “Whenever any party desires to obtain(2) the deletion of any unnecessary, repetitious, scandalous, impertinent, immaterial or otherwise improper allegations in an adverse party's pleading,or (4) any other appropriate correction in an adverse party's pleading.

In the instant matter, the Plaintiffs' Complaint, in sum, alleges that run-off from the Defendant's storm water drainage pipe caused damage to their property. In Count II paragraph 13, the Plaintiff alleges that "The Defendants' failed, neglected, or otherwise refused to remediate the condition on 71 Chamberlain with a reckless indifference to the rights of the Plaintiff". Count II is a claim for nuisance, not recklessness. There is no count for recklessness on behalf of the Plaintiff. The word "reckless" should be removed as it is only there to inflame the jury and is not part of the claim being made.

IV. OBJECTION:

FOURTH REQUESTED REVISION

I. PORTION OF PLEADING SOUGHT TO BE REVISED:

Count three paragraph 14.

II. REQUESTED REVISIONS:

As to Count III paragraph 14, Defendant seeks to delete the entire paragraph as it is duplicative of Count III paragraph 11.

III. REASON FOR REVISIONS:

Connecticut Practice Book Section 10-35 provides that a Request to Revise is proper “Whenever any party desires to obtain(2) the deletion of any unnecessary, repetitious, scandalous, impertinent, immaterial or otherwise improper allegations in an adverse party's pleading.....

Count III paragraph 14 is duplicative of Count III paragraph 11 and should be removed for the sake of clarity in the pleadings.

IV. OBJECTION:

THE DEFENDANTS,
BEATRIZ GALLAGHER &
JOHN GALLAGHER

By 425022

Stephen J. Leary

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CERTIFICATION

This is to certify that all personal identifying information was redacted pursuant to *Practice Book Section 4-7*. This will further certify the foregoing was mailed via U.S. Mail, postage pre-paid or electronically delivered pursuant to *Practice Book Section 10-14* on this 31ST day of August, 2020.

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Stephen J. Leary
Commissioner of the Superior Court